

SENATE BILL 1147

By Tracy

AN ACT to amend Tennessee Code Annotated, Title 56, Chapter 6 and Title 66, Chapter 31, relative to the sale of insurance for self storage unit possessions in a storage facility.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 56, Chapter 6, is amended by adding Sections 2 through 8 as a new, appropriately designated part:

SECTION 2. For purposes of this part:

(1) "Commissioner" means the commissioner of commerce and insurance or the commissioner's designee;

(2) "Covered personal property" means personal property covered under an occupant's self-service storage insurance policy;

(3) "Department" means the department of commerce and insurance;

(4) "Enrolled occupant" means an occupant who elects coverage under a self-service storage insurance policy issued to an owner;

(5) "Leased space" means the storage space or spaces at the self-service storage facility that is leased or rented to an occupant pursuant to a rental agreement;

(6) "Location" means any physical location in this state or any web site, or similar location directed to residents of this state;

(7) "Occupant" means a person, or a sublessee, successor or assign of such person, entitled to the use of leased or rented storage space at a self-service storage facility under a rental agreement, to the exclusion of others;

(8) "Owner":

(A) Means:

(i) The owner, operator, lessor or sublessor of a self-service storage facility, the agent of such person; or

(ii) Any person authorized by such person to manage the facility or to receive rent from an occupant under a rental agreement; and

(B) Does not include a warehouseman as defined in § 47-7-102(1)(h);

(9) "Personal property" means movable property not affixed to land and includes, but is not limited to, goods, wares, merchandise, household items and vehicles;

(10) "Rental agreement" means any agreement or lease, written or oral, that establishes or modifies the terms, conditions, rules or any other provisions concerning the use and occupancy of leased or rented storage space at a self-service storage facility;

(11) "Self-service storage facility":

(A) Means any real property designed and used for the purpose of renting or leasing storage space to occupants who are to have access to such space for the purpose of storing and removing personal property; and

(B) Does not include any part of the real property used for residential purposes;

(12) "Self-service storage insurance":

(A) Means insurance which may provide coverage for the repair or replacement of covered personal property against any one (1) or more of the following causes:

(i) Loss;

(ii) Theft;

(iii) Damage; or

(iv) Other similar causes of loss; and

(B) Does not include a homeowner's, renter's, private passenger automobile, commercial multi-peril or similar policy;

(13) "Self-service storage transaction" means the lease of self-service storage space by an owner to an occupant pursuant to a rental agreement;

(14) "Supervising entity" means a business entity that is a licensed insurance producer or insurer; and

(15) "Vehicle" means a motor vehicle, a trailer or a semitrailer as defined in §§ 55-1-103 and 55-1-105 and a vessel as defined in § 69-9-204.

SECTION 3.

(a) An owner shall hold a limited lines business entity producer's license to sell or offer coverage under a policy of self-service storage insurance. An owner who complies with this part shall be entitled to a limited lines license, without examination, authorizing the owner to sell or offer coverage under a policy of self-service storage insurance.

(b) A limited lines license issued to an owner under this section shall authorize any employee or authorized representative of the owner to sell or offer coverage under a policy of self-service storage insurance to an occupant at each location at which the owner engages in self-service storage transactions.

(c) In connection with an owner's initial application for licensure and at renewal, the owner shall provide a list to the commissioner of all locations in this state at which the owner offers coverage.

(d) Notwithstanding any law to the contrary, a license issued pursuant to this section shall authorize the licensee and its employees or authorized representatives to engage in activities permitted in this part.

SECTION 4.

(a) At every location where self-service storage insurance is offered to occupants, brochures or other written materials shall be made available that:

(1) Disclose that self-service storage insurance may provide a duplication of coverage already provided by an occupant's homeowner's insurance policy, renter's insurance policy or other source of coverage;

(2) State that the enrollment by the occupant in a self-service storage insurance program is not required in order to lease self-service storage space;

(3) Summarize the material terms of the insurance coverage, including:

(A) The identity of the insurer;

(B) The identity of the supervising entity;

(C) The amount of any applicable deductible and how it is to be paid;

(D) Benefits of the coverage;

(E) Key terms and conditions of coverage such as whether covered personal property may be repaired or replaced;

(4) Summarize the process for filing a claim; and

(5) State that the enrolled occupant may cancel enrollment for coverage under a self-service storage insurance policy at any time and the person paying the premium shall receive a refund of any applicable unearned premium.

(b) Notwithstanding any law to the contrary, self-service storage insurance may be offered on a month-to-month or other periodic basis as a group or master commercial inland marine policy issued to an owner for its enrolled occupants.

(c) Eligibility and underwriting standards for occupants electing to enroll in coverage shall be established for each self-service storage insurance program.

SECTION 5.

(a) Notwithstanding any law to the contrary, the employees and authorized representatives of an owner may sell or offer self-service storage insurance to occupants

and shall not be subject to licensure as an insurance producer under this part; provided, that:

(1) The owner obtains a limited lines license to authorize its employees or authorized representatives to sell or offer self-service storage insurance pursuant to Section 3 of this act;

(2) The insurer issuing the self-service storage insurance either directly supervises or appoints a supervising entity to supervise the administration of the program, including development of a training program for employees and authorized representatives of the owner. The training required by this subdivision (a)(2) shall comply with the following:

(A) The training shall be delivered to employees and authorized representatives of an owner who are directly engaged in the activity of selling or offering self-service storage insurance;

(B) The training may be provided in electronic form. If the training is conducted in an electronic form, the supervising entity shall implement a supplemental education program regarding self-service storage insurance that is conducted and overseen by licensed employees of the supervising entity; and

(C) Each employee and authorized representative shall receive basic instruction concerning the self-service storage insurance offered to customers and the disclosures required under Section 4;

(3) No employee or authorized representative of an owner of self-service storage space shall advertise, represent or otherwise hold themselves out as a non-limited lines licensed insurance producer; and

(4) No employee or authorized representative of an owner shall be compensated based primarily on the number of occupants enrolled for self-service storage coverage; provided, however, the employee or authorized representative may receive compensation for activities under the limited lines license which is incidental to overall compensation.

(b)

(1) The charges for self-service storage insurance coverage may be billed and collected by the owner; provided, such charges shall be separately itemized on the enrolled occupant's bill.

(2) Owners billing and collecting such charges shall not be required to maintain such funds in a segregated account; provided, the owner is authorized by the insurer to hold such funds in a non-segregated account and remits such amounts to the supervising entity within sixty (60) days of receipt.

(3) All funds received by an owner from an enrolled occupant for the sale of self-service storage insurance shall be considered funds held in trust by the owner in a fiduciary capacity for the benefit of the insurer.

(4) Owners may receive compensation for billing and collection services.

SECTION 6. If an owner or its employee or authorized representative violates this part, the commissioner is authorized to:

(1) After notice and hearing, impose on a person licensed pursuant to this act civil penalties not to exceed five hundred dollars (\$500) per violation and five thousand dollars (\$5,000) in the aggregate for such conduct; and

(2) After notice and hearing, impose on a person licensed pursuant to this act other penalties that the commissioner deems necessary and reasonable to carry out the purpose of this act, including:

(A) Suspending the privilege of transacting self-service storage insurance pursuant to this act at specific business locations where violations have occurred; and

(B) Suspending or revoking the authority of individual employees or authorized representatives to act under a license issued pursuant to Section 3.

SECTION 7. Notwithstanding any other law to the contrary:

(1) An insurer may terminate or otherwise change the terms and conditions of a policy of self-service storage insurance only upon providing the policyholder and enrolled occupants with at least thirty (30) days written notice;

(2) If the insurer changes the terms and conditions, then the insurer shall provide the owner policyholder with a revised policy or endorsement and each enrolled occupant with a revised certificate, endorsement, updated brochure or other evidence indicating a change in the terms and conditions has occurred and a summary of material changes;

(3) Notwithstanding subdivision (1):

(A) An insurer may terminate an enrolled occupant's enrollment under a self-service storage insurance policy upon fifteen (15) days written notice for discovery of fraud or material misrepresentation in obtaining coverage or in the presentation of a claim thereunder; and

(B) An insurer may immediately terminate an enrolled occupant's enrollment under a self-service storage insurance policy:

(i) For nonpayment of premium;

(ii) If the enrolled occupant ceases to have active business with the owner; or

(iii) If an enrolled occupant exhausts the aggregate limit of liability, if any, under the terms of the self-service storage insurance policy and the insurer sends written notice of termination to the enrolled occupant within thirty (30) calendar days after exhaustion of the limit. Provided, however, if notice is not timely sent, enrollment shall continue notwithstanding the aggregate limit of liability until the insurer sends written notice of termination to the enrolled occupant;

(4) If a self-service storage insurance policy is terminated by a policyholder, then the policyholder shall mail or deliver written notice to each enrolled occupant advising the enrolled occupant of the termination of the policy and the effective date of termination. The written notice shall be mailed or delivered to the enrolled occupant at least thirty (30) days prior to the termination; and

(5)

(A) Whenever notice by an insurer is required pursuant to this section, the notice shall be in writing and may be mailed or delivered to the owner at the owner's mailing address and to its affected enrolled occupants' last known mailing addresses on file with the insurer;

(B) If notice is mailed pursuant to this section, then the insurer or owner, as the case may be, shall maintain proof of mailing in a form authorized or accepted by the United States Postal Service or other commercial mail delivery service;

(C) An insurer or owner policyholder may comply with any notice required by this section by providing electronic notice to an owner or its

affected enrolled occupants, as the case may be, by electronic means. If notice is accomplished through electronic means, the insurer or owner, as the case may be, shall maintain proof that the notice was sent.

SECTION 8.

(a) A sworn application for a license under this part shall be made to and filed with the commissioner on forms prescribed and furnished by the department.

(b) The application shall:

(1) Provide the name, residence address and other information required by the department for an individual that is designated by the applicant as the individual responsible for the owner's compliance with this part. Notwithstanding any other law, the individual required to be designated by the owner pursuant to this section and § 56-6-106(b)(2) shall not be required to be a principal, officer or employee of the owner but shall be a principal, officer or employee of the supervising entity who holds a current producer license in this state; and

(2) Provide the location of the applicant's home office.

(c) Initial licenses issued pursuant to this part shall be valid for a period of twenty-four (24) months and expire biennially on March 1 of the renewal year assigned by the commissioner.

(d)

(1) Except as provided in subdivision (d)(2), each owner licensed under this part shall pay to the commissioner a fee as prescribed by the commissioner, but in no event shall the fee exceed one thousand dollars (\$1,000) for an initial self-service storage limited lines license and five hundred dollars (\$500) for each renewal thereof.

(2) The fee prescribed for an owner that is engaged in self-service storage transactions at ten (10) or fewer locations in this state shall not exceed one hundred dollars (\$100) for an initial license and for each renewal thereof.

SECTION 9. Tennessee Code Annotated, Section 56-6-110, is amended by adding the following new appropriately designated subdivision thereto:

() Self-service storage insurance;

SECTION 10. Tennessee Code Annotated, Section 56-6-104(b), is amended by adding the following new appropriately designated subdivision thereto:

() An officer, director, employee or authorized representative of a business entity engaged in the sale, solicitation or negotiation of self-service storage insurance licensed pursuant to and acting in compliance with Sections 2 - 8 of this act;

SECTION 11. The commissioner is authorized to promulgate rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be promulgated in accordance with Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 12. For the purpose of promulgating rules and regulations, this act shall take effect upon becoming law, the public welfare requiring it. For all other purposes, this act shall take effect October 1, 2013, the public welfare requiring it.